

GUIDELINE B-9
(formerly 15-10)

Resolution of Groundwater

Interference Problems

Legislative Authority:

Ontario Water Resources Act
Environmental Protection Act

Responsible Director:

Director, Program Development Branch

Last Revision Date:

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Table of Contents

- 1.0 DEFINITIONS**
- 2.0 MINISTRY JURISDICTION**
- 3.0 WHO CAN TAKE ACTION**
- 4.0 MECHANISM FOR ACTION**
- 5.0 RESPONSIBILITY OF THE MINISTRY**
- 6.0 RESPONSIBILITY OF THE OWNER**
- 7.0 ACTION PLAN**
- 8.0 FUNDING AND COSTS**
- 9.0 CLEAN-UP**
- 10.0 RESTORATION**

SYNOPSIS

This guideline is intended to facilitate implementation of the groundwater quality management guidelines spelled out in Procedure B-1-1: "Water Management - Guidelines and Procedures of the Ministry of the Environment (under revision)."

The guideline describes the Ministry position in dealing with the abatement of groundwater contamination caused by activities that are not being carried out under a Certificate of Approval issued by the Ministry. The intent is to provide guidance to Ministry staff in evaluating and resolving cases of groundwater quality interference caused by such activities.

Additional details are contained in Procedure B-9-1: "Resolution of Groundwater Quality Interference Problems".

1.0 Definitions

Environment:

For the purposes of this guideline, the environment includes: the subsurface; water within the subsurface; and the path traversed during the movement of contaminants:

- from the surface to the subsurface;
- from the subsurface to the surface; and
- within the subsurface.

Groundwater Quality Interference:

The deterioration of the quality of groundwater resulting from the release of contaminants.

2.0 Ministry Jurisdiction

The Ministry has jurisdiction over the investigation, clean-up and restoration of the environment and/or water supplies.

3.0 Who Can Take Action

The action necessary to resolve these cases can be taken by the polluter, the affected party, the Ministry, the municipality or others.

4.0 Mechanism for Action

There are a number of mechanisms available to ensure that the appropriate action is taken. These include the use of Ministerial Orders, outside consultants, or voluntary support from either the polluter or the affected party. The Ministry, the municipality or others may also perform the work required.

5.0 Responsibility of the Ministry

The Ministry shall, in all cases and at all times, ensure that action is taken to resolve groundwater quality interference and this responsibility will not be abdicated when delegated to or assumed by any other party. The Ministry may order, request or hire someone to carry out the required work to its satisfaction.

The required resolution of each case with respect to clean-up and restoration will be determined and specified by the Ministry and will depend upon site-specific conditions.

Implementation procedures and guidelines are presented in detail in Appendix A of Procedure B-9-1: "Resolution of Groundwater Quality Interference Problems".

6.0 Responsibility of the Owner

It is the responsibility of the owner of the contaminant or the person having control of the contaminant to pay for all costs associated with the contaminant discharge including the investigation, the clean-up of the environment, and the restoration of affected water supplies, and to do all that is practicable to minimize damage caused by the contaminant discharge, and to facilitate clean-up.

Where it will not substantially impede the resolution of a problem, the polluter shall be given the opportunity to act in any or all aspects of the clean-up, investigation or restoration. However, when the Ministry is not satisfied with the progress being made by the polluter, the Ministry shall proceed to resolve or alleviate the problem using whatever means are available and appropriate.

Where the pollution is a "spill" under Part X of the *Environmental Protection Act*, the polluter has a clear duty to clean up, and specific tools are available to the Ministry (see Sections 93, 94, 97 and 100).

7.0 Action Plan

In no case shall substantial Ministry funds be expended or costly corrective action ordered until an action plan has been prepared. The plan should take the following into consideration:

- a) the anticipated scope, timing and methodology of the investigation, clean-up, and restoration;
- b) the anticipated legal and administrative action for closing out the problem and collecting funds, should this be necessary.

8.0 Funding and Costs

Prior to any extensive investigations, the costs of the proposed resolution -- including investigation, clean-up and restoration -- shall be weighed against the benefits of doing the work. (See Appendix B of Procedure B-9-1.)

Where it is anticipated that costs to the Ministry for the investigation, clean-up and restoration will be significant, the Regional Director shall have to seek funds from the appropriate source.

9.0 Clean-up

The Ministry shall decide on a case-by-case basis what, if any, level of clean-up it will require or undertake. (See Appendix B of Procedure B-9-1.)

10.0 Restoration

The permanent restoration of water supplies which have been significantly affected and the provision of temporary supplies shall be required or undertaken in cases where the problem is caused by a third party (not the complainant), whether or not the specific origin of the contamination can be identified.

No restoration will be undertaken where the problem is: self-induced; of a natural cause; or insignificant.